IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.15407 of 2004

Between:

N.V.S.Badrinath, S/o Sreenivasulu Setty,
Yeddulapalli Road, R/o Pamidi Village & Mandal,
Anantapur District

..... PETITIONER

AND

1 The Government of A.P. Department of Home, rep.by its

Principal Secretary, Secretariat Buildings, Hyderabad.

2 The Inspector General Of Police (Intelligence) of Andhra Pradesh,

O/o The Director General of Police, Lakdikapul, Hyderabad.

3 The Superintendent of Police, Anantapur, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in withdrawing the Personal Security (Police Constable) provided to the petitioner, as illegal, contrary to law, violative of Article 21 of the Constitution of India and arbitrary and consequently direct the respondents to provide Personal Security to the Petitioner.

Counsel for the Petitioner: MR.VENKATESWARLU POSANI

Counsel for the Respondents: GP FOR HOME

The Court made the following:

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ORDER:

The petitioner is resident of Pamidi village. He filed the instant writ petition seeking a writ of mandamus declaring the action of respondents in withdrawing personal security provided to the petitioner is illegal, contrary to law and violative of Article 21 of Constitution of India.

The case of the petitioner in brief is as follows. The petitioner supported the candidate of Telugu Desam Party in recent Parliament and Assembly elections in Tadipatri Legislative Assembly Constituency. The petitioner's mother is President of Mandal Parishad of Pamidi. It is alleged that J.C.Diwakar Reddy and his henchmen brought pressure on petitioner's mother to resign for the post on the ground that petitioner did not support Diwakar Reddy. This has led to enmity between his group and the petitioner. Though the petitioner's mother gave a representation on 18.5.2004 requesting to provide security to her and the petitioner, no action was taken. In the meanwhile on 14.6.2004, a mob of 200 people headed by Veeranjaneyulu, Z.P.T.C. Member attacked the house of paternal uncle of petitioner, petitioner's residence, petitioner's cinema theatre, Sudershan Cinema Theatre, and petitioner's wine shop, Sudershan wines and also assaulted petitioner's brother and his wife. It is also alleged that the petitioner's brother was kidnapped by the opposite group. A crime being Crime No.39 of 2004 was registered by P.S. Pamidi, under Sections 147, 148, 452, 324, 427, 307 read with 149 of Indian Penal Code, 1908 (IPC) and the complaint given by the Sub Inspector of Police, P.S.Pamidi, was registered as Crime No.40 of 2004 against Veeranjaneyulu and 15 others.

The petitioner and his mother made number of representations and ultimately the third respondent provided security by deputing one Police constable who was later changed. However, in August, 2005, the police security was withdrawn. Challenging the same, the present writ petition is filed.

The third respondent has filed a counter affidavit along with W.V.M.P.No.3226 of 2004. It is stated that after the mob attack on 14.6.2004, the petitioner was provided with one Police Security Officer and petitioner's mother was provided with 1+1 security, free of cost. According to the third respondent, as there was no threat perception to the lives of the petitioner and his mother in view of completion of the elections, the security provided was withdrawn. Such a decision was taken keeping in view the ground realities and threat perception to the life of the petitioner.

The learned Counsel for the petitioner raised only submission that the third respondent passed orders withdrawing security without there being any actual review of threat perception to the life of the petitioner and therefore, the action is illegal. This is refuted by the learned Assistant Government Pleader for Home.

This Court while admitting the writ petition on 30.8.2004 directed the respondents not to withdraw the personal security to the petitioner until further orders. In **G. Subas Reddy v. State of A.P.,** a Division Bench of this Court held that the State is bound to protect the life of the person when there was a threat from a rival group. This Court also issued guidelines. Following those guidelines, the Government Andhra Pradesh in Home Department issued G.O.Ms.No.655 dated 13.3.1997. These guidelines deal with the persons who were entitled to the police protection and the competent authority who can provide such police protection subject to review once in three weeks regarding threat perception to life. As held by this Court in **G.Subas Reddy**'s case (supra), whether there is a threat perception to life of a citizen and whether police security has to be provided to such a person is a matter, which is left to the discretion of the Head of the District Police. As per the guidelines issued in G.O.Ms.No.655, dated 13.03.1997, a person who alleges that there is a threat perception to life has to initially approach the Superintendent of Police seeking protection. Such application has to be considered by the Superintendent of Police and straightaway such person for the first time cannot approach under Article 226 of the Constitution of India. The question cannot be decided in proceedings under Article 226 of Constitution of India.

When there was a mob attack on the petitioner, the third respondent provided a Personal Security Officer to the petitioner and later withdrawn, after reviewing the threat perception to the life of the petitioner. In the absence of any rebuttal by way of a reply affidavit, the submission that the third respondent did not resort to any such review cannot be considered. If there is any threat perception to his life, it shall be open to the petitioner to approach the third respondent by making a representation, which shall be considered in accordance with the guidelines issued in G.O.Ms.No.655. In this writ petition, no relief can be granted. The interim order passed by this Court shall stand vacated.

The writ petition, with the above observations and directions, is dismissed.

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(**V.V.S. RAO,J**)

04.07.2005

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To

1 The Principal Secretary, Government of Andhra Pradesh,

Department of Home, Secretariat Buildings, Hyderabad.

2 The Inspector General Of Police (Intelligence) of Andhra Pradesh,

O/o The Director General of Police, Lakdikapul, Hyderabad.

3 The Superintendent of Police, Anantapur, Anantapur District.

4 Two CCs to the Government Pleader for Home,

High Court Buildings, Hyderabad. (OUT)

5 Two C.D. Copies.